

No. 48078-6-II

COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

(Thurston County Superior  
Court No. 13-2-01585-9)

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MILO D. BURROUGHS, Appellant (Plaintiff),

v.

WESTERN AIRPARK ASSOCIATION, Respondent (Defendant).

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BRIEF OF RESPONDENT

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## **I. INTRODUCTION**

It is difficult to conceive of a more meritless appeal.

Respondent Western Airpark Association (“Western Airpark”) is a non-profit homeowners association that manages the plat of the same name. The plat features an aircraft runway that is in active use. When homeowner Milo D. Burroughs (“Mr. Burroughs”) began walking on the runway—alone, in dark clothes, and unobservant of aircraft—near misses resulted. Western Airpark responded by asking him to employ safety measures by walking with another person or walking along the plat’s roadways or common areas, instead of the runway.

Mr. Burroughs reacted by suing Western Airpark “in a fit of anger and a total lack of legal knowledge.”

After filing suit, Mr. Burroughs then declined to appear for pre-trial hearings, twice. Mr. Burroughs declined to attend trial, but Western Airpark put on a full defense case, calling witnesses and admitting exhibits. The trial court entered final judgment in Western Airpark’s favor. Months later, Mr. Burroughs chose to settle with Western Airpark, in exchange for Western Airpark filing a satisfaction of judgment, which it did.

Despite all of this, nine months after the final judgment issued, Mr. Burroughs filed a purported “notice of appeal,” which this Court eventually accepted as timely. For the next eight months, Mr. Burroughs missed every appellate deadline, while repeatedly lambasting the Clerk of this Court (and others) as engaging in a “conspiracy” against him. His eventual appeal brief was placed in the Court file “without action” because it violates applicable Rules of Appellate Procedure.

As Western Airpark explains in this brief, Mr. Burroughs’ appeal should be dismissed as untimely. It should also be dismissed on grounds of waiver and estoppel. If the Court reaches the merits of the trial court’s judgment, the ample, uncontroverted trial evidence in favor of Western Airpark requires that the trial court be affirmed.

## **II. MR. BURROUGHS DID NOT MAKE ANY ASSIGNMENT OF ERROR**

Mr. Burroughs’ Brief of Appellant (titled “Substitute Brief”) did not make a single assignment of error. *See* Substitute Br. at 4 (although Mr. Burroughs’ Table of Contents stated that assignments of error were made on page 4, neither that page nor any other set forth a single assignment of error).

As explained in this Brief, Mr. Burroughs has no viable assignment

of error to make – he missed the deadline to appeal the trial court’s sound judgment which was supported by substantial evidence in the record.

### **III. STATEMENT OF THE CASE**

#### **A. After Western Airpark Voiced Concern about Safety Risks from Mr. Burroughs’ Walking on the Community’s Runway, Mr. Burroughs Sued Western Airpark.**

Western Airpark is a non-profit homeowners association which manages the plat also known as Western Airpark, situated in Thurston County. Supplemental Designation of Clerk’s Papers<sup>1</sup> (Thurston County Superior Court Docket No. (hereinafter “TCSC No.”) 48 (Judgment, p. 2)). A feature of the plat is an air park, complete with taxiways and a runway. *Id.*; RP 10:2-5, 15:1-3.

Mr. Burroughs is a homeowner within the plat. *Id.*; RP 14:3-4, 16:21-17, 18:8-16. In late 2012 and 2013, Western Airpark received reports that Mr. Burroughs had been walking on the runway alone, in dark clothing, unobservant of his surroundings, and that this had resulted in at least nine interferences with aircraft using the runway. *Id.*; RP 13:5-7, 13:13-16, 13:24-25, 14:7-11. Accordingly, Western Airpark sent Mr. Burroughs a notice requesting that, for the sake of safety, he either walk on

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<sup>1</sup> Concurrently with filing this brief, Western Airpark makes a supplemental designation of clerk’s papers, pursuant to RAP 9.6(a). Hereinafter, these supplemental clerk’s papers will be identified by the abbreviation “SCP,” followed by the trial court docket number.

the runway accompanied by another adult or walk instead on the plat's roadways or common areas. *Id.*; RP 15:21-16:3.

Mr. Burroughs reacted to Western Airpark's notice by filing a lawsuit against Western Airpark in Thurston County Superior Court in July 2013, alleging that he was singled out as the "only person (adult or child) restricted from walking on the runway" and that the notice constituted an "illegal harassing attempt to exercise police powers" by Western Airpark. SCP (TCSC No. 4 (Petition, pp. 1, 2)).<sup>2</sup> Western Airpark denied all claims and explained that it had issued the notice to Mr. Burroughs for safety reasons because he had "caused nine (9) documented near misses by airplanes." SCP (TCSC No. 10 (Answer, pp. 2, 6)).

**B. Although He Had Commenced the Lawsuit, Mr. Burroughs Did Not Appear for Pre-Trial Hearings, Twice. He Did Not Appear for Trial.**

Trial was originally scheduled for June 30, 2014, but Mr. Burroughs did not appear for the pre-trial hearing. *See* RP 6:3-4, SCP (TCSC No. 16 (Order Setting Case Schedule)). On July 29, 2014, the Superior Court issued an Amended Case Schedule Order that reset the one-day trial to October 20, 2014. SCP (TCSC No. 38 (Amended Case Schedule Order)). Mr. Burroughs again missed the pre-trial hearing, and

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<sup>2</sup> He later admitted that he did so "in a fit of anger and a total lack of legal knowledge."



on the rescheduled trial date Western Airpark and its counsel again appeared, but Mr. Burroughs again did not appear for trial. SCP (TCSC No. 45 (Non-Jury Trial, p. 1)). On the record, the Superior Court explained Mr. Burroughs' absence:

THE COURT: We are here for trial in the case of Milo Burroughs vs. Western Airpark Association. It appears that the plaintiff is not here today, which was not a big surprise to me after I reviewed some documents . . . . I reviewed a document that was never filed but was provided to the Court in the form of a bench copy . . . in which Mr. Burroughs indicated that he was under the impression the Court could review documents and make a decision on the case without a trial. . . . Of course, that is not true.

RP 4:6-10, 4:21-5:2, 6:12.

The Superior Court then proceeded with trial, and Western Airpark put on a complete defense case: it called four witnesses, it had eight exhibits entered, and its counsel presented a closing argument to the Superior Court. RP 3 (Index of trial proceedings). After hearing Western Airpark's defense case, the Superior Court took a recess to consider Western Airpark's testimony and exhibits. RP 40:5-7. After returning to the bench, the Superior Court issued its ruling. It ruled that "the testimony and exhibits in this case support each of the findings proposed" in Western Airpark's proposed findings and conclusions. RP 40:25-41:2. The

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*See* August 27, 2015 entry in chart in Section III.E, below.

Superior Court further concluded that Western Airpark “does have the authority to take the actions that it did against Mr. Burroughs,” and it awarded \$4,393.00 in attorney’s fees to Western Airpark. RP 41:5-7, 42:2-11. The Superior Court then signed and issued an Order and Judgment (the “Judgment”) in the case, dated the same date as trial (October 20, 2014) and specifying that the judgment amount would accrue interest. SCP (TCSC No. 48 (Judgment)).

**C. For Months after the Trial Court Entered Judgment against Mr. Burroughs, Mr. Burroughs Continued Sending Pleadings to the Superior Court and then Settled with Western Airpark.**

It is beyond question that the Superior Court’s October 20, 2014 Judgment was a final judgment, triggering a 30-day appeal deadline. *See* RAP 2.2(a)(1), 5.2(a). Nevertheless, Mr. Burroughs reacted to the Judgment by filing a series of additional pleadings with the Superior Court, for months after the Judgment had been entered:

- On December 18, 2014, Mr. Burroughs moved for an insertion in the Superior Court’s record. SCP (TCSC No. 53 (Request for Records)).
- On December 24, 2014, Mr. Burroughs filed a pleading conceding that he knew that the Superior Court had reached a decision in the case. He admitted that “[u]ntil just recently we assumed litigation was continuing, but this Court contrary to our request convened a bench decision with a trial.” SCP (TCSC No. 54 (Request for Bench Decision, p. 3)).

- On January 14, 2015, Mr. Burroughs moved for reconsideration, SCP (TCSC No. 59 (Motion for Reconsideration)), but it was untimely. He had missed the 10-day deadline to do so by more than 75 days. *See* CR 59(b) (a motion for reconsideration must be “filed not later than 10 days after the entry of the judgment”).
- On each of February 2, 2015, February 20, 2015, and June 12, 2015, Mr. Burroughs moved for a “bench decision.” SCP (TCSC Nos. 70, 75, and 84 (Motions for Bench Session/Decision)).
- On May 11, 2015, Mr. Burroughs moved for summary judgment, citing CR 56, even though the Superior Court’s final judgment had been issued seven months prior. SCP (TCSC No. 77 (Motion for Summary Judgment)).

Meanwhile, Mr. Burroughs had not paid the \$4,393.00, plus interest, awarded to Western Airpark in the Judgment. Accordingly, on June 2, 2015, Western Airpark moved for an order directing Mr. Burroughs to appear for an examination in supplemental proceedings. SCP (TCSC No. 78 (Motion for Supplemental Proceedings)). In response to Western Airpark’s motion, the Superior Court issued a June 2, 2015 Order for Supplemental Proceedings, directing Mr. Burroughs to appear on June 26, 2015 for an examination in supplemental proceedings. SCP (TCSC No. 80 (Order re Supplemental Proceedings)). That order did not make any substantive finding or ruling; it only directed Mr. Burroughs to appear for examination. *Id.*

Mr. Burroughs responded by both asking for more time to “address

the supplemental proceedings” and moving for a “bench decision on the record in the Supplemental Proceeding at hand.” SCP (TCSC Nos. 83 (Motion for Extension of Time) and 84 (Motion for Bench Decision)). In response to his request, the Superior Court moved the date for Mr. Burroughs to appear for examination in supplemental proceedings to July 10, 2015. SCP (TCSC No. 85 (Continued: Supplemental Proceedings)).

Rather than proceed with the rescheduled July 10, 2015 examination in supplemental proceedings, Mr. Burroughs chose to settle with Western Airpark. *See* Appendix A (June 25, 2015 letter from Mr. Burroughs’ attorney enclosing a “settlement” check for \$7,287.96 in exchange for the release of all liens against Mr. Burroughs and the filing of a satisfaction of judgment).<sup>3</sup> Under the terms of the settlement with Mr. Burroughs, on July 1, 2015, Western Airpark filed a full satisfaction of judgment acknowledging “full satisfaction as to that judgment entered and filed against plaintiff Milo D. Burroughs on October 20, 2014, in the sum of \$4,393.00, including costs and fees.” SCP (TCSC No. 86 (Satisfaction of Judgment)).

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<sup>3</sup> Western Airpark respectfully requests permission to include its appendix material

**D. After the Settlement with Mr. Burroughs Caused Western Airpark to File a Satisfaction of Judgment, Mr. Burroughs Filed an Appeal.**

Four weeks after the Full Satisfaction of Judgment was entered, Mr. Burroughs sent a notice of appeal to the Superior Court. SCP (TCSC No. 89 (Notice of Appeal to Court of Appeals)). After the Clerk of this Court sent an October 8, 2015 letter to Mr. Burroughs explaining that his notice of appeal was untimely as to the October 20, 2014 judgment, Mr. Burroughs responded that “The notice of appeal that was filed on 7/31/2015 was a RESPONSE TO ORDER FOR SUPPLEMENTAL PROCEEDING not a response to the request order for attorney fees entered on OCTOBER 20, 2014.” Appendix B (October 10, 2015 letter from Mr. Burroughs to D. Ponzoha, with enclosures)<sup>4</sup> (emphasis in original). In fact, as discussed above, the only “order for supplemental proceedings” in the Superior Court action was merely an order compelling Mr. Burroughs to appear for examination in supplemental proceedings (*i.e.*, the order did not reach any issue concerning the substance of the Judgment’s award). That order was issued on June 2, 2015, 59 days

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pursuant to RAP 10.3(a)(8).

<sup>4</sup> Mr. Burroughs’ letter, and other filings he has made in this Court, concludes with a purported notarization; however, the notarization is hand-dated May 21, 2012, and the notary’s commission is noted as expiring on March 24, 2014. The notarization is invalid. *See also* Appendix D (letter from the notary explaining that *Mr. Burroughs never engaged her services*).

before Mr. Burroughs filed his purported notice of appeal.

Indeed, the only two actions that the Superior Court took within the 30 days preceding Mr. Burroughs' July 31, 2015 notice of appeal were (1) accepting the filing of Western Airpark's July 1, 2015 Full Satisfaction of Judgment and then (2) cancelling the July 10, 2015 examination in supplemental proceedings. Despite this, on October 27, 2015, a Commissioner of this Court made the following ruling without offering any reasoning: "The notice of appeal is deemed filed on July 31, 2015 (2 days after it was mailed) and is therefore timely filed." Appendix C (October 27, 2015 letter from D. Ponzoha to Mr. Burroughs).

**E. After Filing His Appeal, Mr. Burroughs then Proceeded to Miss Every Deadline and Remains Out of Compliance with Applicable Rules of Appellate Procedure.**

After the Court Commissioner deemed Mr. Burroughs' appeal as timely, Mr. Burroughs proceeded to miss every single applicable deadline in the Rules of Appellate Procedure, was given—and missed—repeated extensions by the Court Clerk, and failed to meet RAP standards for his eventual filings. The following lengthy chart documents this extraordinary series of events:<sup>5</sup>

<b>Docket Date</b>	<b>Event</b>	<b>Outcome/Comments</b>
<b>Nov. 10, 2015</b>	Letter sent by Court	Court's letter regarding Mr. Burroughs' email dated Nov. 8, 2015 having been deleted for failing to comply with the RAPs by sending to individual email addresses at the Court.
<b>Nov. 17, 2015</b>	Email filed	Copy of Nov. 8, 2015 email filed by Mr. Burroughs
<b>Dec. 4, 2015</b>	Letter of Sanctions	Court's motion for further sanctions and dismissal – Late Statement of Arrangements and Designation of Clerk's Papers
<b>Dec. 4, 2015</b>	Court's Motion to Dismiss	Court's motion to dismiss for failure to file Statement of Arrangements and Designation of Clerk's Papers. Hearing scheduled for Dec. 30, 2015
<b>Dec. 9, 2015</b>	Letter sent by Court	Court's request that Mr. Burroughs file pleadings via the electronic filing system to comply with the rules
<b>Dec. 21, 2015</b>	Response from Mr. Burroughs	Mr. Burroughs' response to Court's letter dated Dec. 9, 2015.
<b>Jan. 7, 2016</b>	Ruling on Motions	Grace period granted – Appeal will be dismissed without further notice unless Statement of Arrangements and Designation of Clerk's Papers and \$300 sanction are on file with the Court by <b>Jan. 19, 2016</b> .
<b>Jan 11, 2016</b>	Payment for sanctions	Mr. Burroughs pays \$300 sanction
<b>Jan 11, 2016</b>	Statement of Arrangements and Designation of Clerk's Papers filed by Mr. Burroughs	<i>Originally due Nov. 30, 2015.</i>
<b>Jan 22,</b>	Clerk's Papers	[Note: the Clerk's Papers do not meet

<sup>5</sup> Each of the documents in the chart is on file with this Court in this appeal.

<b>Docket Date</b>	<b>Event</b>	<b>Outcome/Comments</b>
<b>2015</b>	filed by Mr. Burroughs	RAP 9.6 requirements as they do not even include the complaint. <i>See</i> RAP 9.6(b)(1)(C).]
<b>Mar. 17, 2016</b>	Court's Motion for Sanctions for Failure to File	Hearing date: Apr. 20, 2016. <i>Originally due Mar. 11, 2016.</i>
<b>Mar. 17, 2016</b>	Clerk's Motion for Further Sanctions	Court's letter of Sanctions for untimely filing of transcript. Dismissal and \$250 sanction imposed by Apr. 1, 2016 if transcript is not filed by <b>Apr. 4, 2016</b> .
<b>Mar. 24, 2016</b>	Letter	Copy of email sent to Pam Hartman-Beyer at Thurston County
<b>Mar. 25, 2016</b>	Response filed by Mr. Burroughs	Response to Court's letter dated Mar. 17, 2016
<b>Mar. 25, 2016</b>	Email from Court Reporter	Email from court reporter Cheri Davidson regarding transcript
<b>Mar. 29, 2016</b>	"Conspiracy" document filed by Mr. Burroughs	Also contains a duplicate response letter to Court's letter dates Dec. 8, 2015
<b>Mar 31, 2016</b>	Letter of Sanctions	Court's letter to Mr. Burroughs regarding service of Statement of Arrangements upon the court reporter and payment for the preparation of the transcript. \$250 sanction to be imposed if the transcript is not filed within 15 days of the date of this letter. Transcript due by <b>Apr. 18, 2016</b> .
<b>Apr. 1, 2016</b>	Report of Proceedings filed by Mr. Burroughs	<i>Originally due Mar. 11, 2016.</i>
<b>Apr. 4, 2016</b>	Report of Proceedings filed by court	



<b>Docket Date</b>	<b>Event</b>	<b>Outcome/Comments</b>
	reporter	
<b>May 18, 2016</b>	Court's Motion to Dismiss for Failure to File	Hearing date: Jun. 8, 2016 for failure to file Appellant's Brief. <i>Originally due May 16, 2016.</i>
<b>May 18, 2016</b>	Letter of Sanctions	Court's letter regarding failure to timely file Appellant's Brief. Dismissal and \$200 sanction imposed on Jun. 2, 2016 if Appellant's Brief is not filed by <b><u>Jun. 6, 2016.</u></b>
<b>Jun. 13, 2016</b>	Ruling on Motions	Court's ruling that appeal will be dismissed unless Appellant's Brief and \$200 sanctions are on file by <b><u>Jun. 23, 2016.</u></b>
<b>Jun. 15, 2016</b>	Letter sent by Court	Court's letter to Mr. Burroughs re Appellant's Brief not conforming to RAPs. A corrected brief must be submitted and served by <b><u>Jun. 30, 2016.</u></b>
<b>Jun. 15, 2016</b>	Payment	\$200 Sanction payment filed by Mr. Burroughs
<b>Jun. 20, 2016</b>	Letter	Letter filed by Mr. Burroughs in response to Court's letter dated Jun. 15, 2016.
<b>Jul. 6, 2016</b>	Court's Motion to Dismiss for Failure to File	Hearing date: Jul. 27, 2016 for failure to file Amended Appellant's Brief. <i>Originally due Jun. 30, 2016.</i>
<b>Jul. 6, 2016</b>	Letter of Sanctions	Court's letter regarding failure to file Amended Appellant's Brief. Dismissal and \$200 sanctions imposed on Jul. 21, 2016 if the Amended Appellant's Brief is not filed by <b><u>Jul. 25, 2016.</u></b>
<b>Jul 7, 2016</b>	Response filed by Mr. Burroughs	Response to Court's letter dated Jul. 6, 2016.
<b>Jul. 28, 2016</b>	Ruling on Motions	Court's ruling that appeal will be dismissed unless Appellant's Brief and \$200 sanctions are on file by <b><u>Aug. 8,</u></b>

<b>Docket Date</b>	<b>Event</b>	<b>Outcome/Comments</b>
		<b><u>2016.</u></b>
<b>Aug. 2, 2016</b>	Response filed by Mr. Burroughs	Response to Court's Jul. 28, 2016 Conditional Ruling
<b>Aug. 3, 2016</b>	Letter sent by Court	Court's letter returning sanction check to Mr. Burroughs and reminding that an Amended Appellant's Brief that complies with the RAPs is due by <b><u>Aug. 8, 2016</u></b> otherwise the appeal will be dismissed without further notice.
<b>Aug. 5, 2016</b>	Letter sent by Court	Court's confirmation of receipt of Mr. Burroughs' August 3, 2016 response. Response does not satisfy the conditional ruling. Amended Appellant's Brief remains due by <b><u>Aug. 8, 2016</u></b> . (Letter accompanied by a sample brief.)
<b>Aug. 9, 2016</b>	Motion to Extend Time to File	Mr. Burroughs files a motion asking for a 30 day extension to file the Amended Appellant's Brief
<b>Aug. 12, 2016</b>	Mr. Burroughs files Amended Appellant's Brief titled "Substitute Brief"	<i>Originally due Aug. 8, 2016.</i>
<b>Aug. 16, 2016</b>	Ruling on Motions	Motion to extend time for filing Amended Appellant's Brief granted. Amended Appellant's Brief accepted without sanction.
<b>Aug. 19, 2016</b>	Letter sent by Court	Court's letter notifying that attachments to the Appellant's Brief are not a part of the record for review and will not be considered
<b>Aug. 28, 2016</b>	Mr. Burroughs' response to Court	Mr. Burroughs' response to Court's letter dated Aug. 19, 2016, admitting having "started this whole process in a fit of

<b>Docket Date</b>	<b>Event</b>	<b>Outcome/Comments</b>
		anger and a total lack of legal knowledge.”
<b>Sept. 2, 2016</b>	Letter sent by Court	Court’s letter to Mr. Burroughs stating he did not request or receive permission to file a substitute brief and the brief does not comply with RAPs; therefore will be “placed in file without action.” Respondent’s Brief remains due <b><u>Sept. 15, 2016.</u></b>

Although Mr. Burroughs had affirmed to this Court that his appeal pertained to an “Order for Supplemental Proceedings,” when Mr. Burroughs finally filed his RAP-noncompliant Substitute Brief, that brief makes no mention of supplemental proceedings. Instead, the brief is a nearly nonsensical collection of accusations. It ranges from invoking federal law regarding discrimination and retaliation, to labeling the Court Clerk of being “proactive and gratuitous in favor of [Western Airpark],” to seeking a “refund” as well as a new award of damages against Western Airpark under “federal appeals court law,” to alleging conspiracy, to demanding \$100,000 in damages from Thurston County Superior Court on accusations of criminal forgery. *See* Substitute Brief, pp. 3-6.

Through these months of process, Western Airpark has been forced to dutifully monitor the extended proceedings, and now responds to this Court’s order to file a response brief.

#### IV. ARGUMENT

##### A. Motion to Dismiss Mr. Burroughs' Appeal for Untimeliness.

Pursuant to RAP 17.4(d), Western Airpark moves for dismissal of Mr. Burroughs' appeal, on the grounds of untimeliness.

As discussed in the Statement of the Case, above, this Court determined that Mr. Burroughs filed his notice of appeal on July 31, 2015. Meanwhile, the final judgment in the Superior Court had been issued nine months earlier, on October 20, 2014. Mr. Burroughs missed by a wide margin his 30-day deadline to appeal the final judgment under RAP 5.2(a).<sup>6</sup> This is fatal to his appeal. *Schaeferco, Inc. v. Columbia River Gorge Comm'n*, 121 Wn.2d 366, 367, 849 P.2d 1225 (1993) (the 30-day appeal deadline is strict, and will not be extended by an untimely motion for reconsideration).

In addition, Mr. Burroughs' assertion that he was attempting to appeal the "order for supplemental proceedings" (rather than the final judgment) does not resolve his appeal's untimeliness. To begin with, an order to appear for examination in supplemental proceedings is not an

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<sup>6</sup> None of RAP 5.2(a)'s exceptions to the 30-day deadline applies. *See* RAP 5.2(a) (There is no pending substitution under RAP 3.2(e); there is no applicable statutory appeal deadline under RAP 5.2(d); no other party sought appeal under RAP 5.2(f); and even if RAP 5.2(e) ever applied to Mr. Burroughs' purported January 2015 "motion for reconsideration," he did not file his July 31, 2015 notice of appeal for another six

appealable superior court action. *See* RAP 2.2(a)(1)-(13) (providing an exclusive list of appealable actions). *And cf. Alpine Indus., Inc. v. Gohl*, 101 Wn.2d 252, 255, 676 P.2d 488 (1984) (a material issue such as newly discovered evidence is required to extend appeal rights to a post-judgment order). Therefore, Mr. Burroughs’ only course would have been to seek “discretionary review” of the June 2, 2015 order for supplemental proceedings. *See* RAP 2.3(a). Once again, the applicable deadline is 30 days. RAP 5.2(b). Thus, even if Mr. Burroughs’ “notice of appeal” is construed as a “notice of discretionary review” (which neither Mr. Burroughs nor this Court appears to have done) Mr. Burroughs’ filing was still late – filed on the 59th day after the Superior Court entered its June 2, 2015 Order for Supplemental Proceedings. It must be dismissed.

**B. Motion to Dismiss Mr. Burroughs’ Appeal for Waiver and Estoppel.**

Pursuant to RAP 17.4(d), Western Airpark moves for dismissal of Mr. Burroughs’ appeal on the grounds of waiver and estoppel.

As noted in the Statement of the Case, above, the only two events occurring within the 30 days preceding Mr. Burroughs’ July 31, 2015 notice of appeal were (1) the filing of the Full Satisfaction of Judgment and (2) the cancellation of an obligation to appear for supplemental

proceedings. Both events were induced by Mr. Burroughs' decision to settle with Western Airpark.

Specifically, rather than appearing for supplemental proceedings in July 2015, Mr. Burroughs retained an attorney for the purpose of settling the matter. *See* Appendix A (letter from Mr. Burroughs' attorney). Mr. Burroughs' attorney expressly advised Western Airpark that Mr. Burroughs was paying Western Airpark in exchange for the filing of a full satisfaction of judgment:

Please have your client file a release of all liens and satisfaction of judgment within three (3) business days after receipt of the *settlement funds*.

Appendix A (emphasis added).

In compliance with the terms of the parties' settlement agreement, Western Airpark accepted the settlement check that was enclosed with Mr. Burroughs' attorney's letter, and it filed the Full Satisfaction of Judgment with the Superior Court. Even if, in concept, a satisfaction of judgment was rationally appealable by a judgment debtor, here, Western Airpark's filing of the full satisfaction of judgment was its carrying out of a material term of the parties' settlement. As such, Mr. Burroughs waived any appeal rights or discretionary review rights in the case, and he is estopped from now changing his position to Western Airpark's detriment. *See Schuster*

*v. Prestige Senior Mgmt., L.L.C.*, 193 Wn. App. 616, 631, 376 P.3d 412 (2016) (waiver is an intentional relinquishment or abandonment of a known right of privilege, and estoppel exists when the conduct of one party has induced the other party to take a position that would result in harm if the first party's act were repudiated). Mr. Burroughs' only remedy if he later regretted the terms of his post-judgment settlement with Western Airpark was to challenge the settlement agreement itself. *See Lavigne v. Green*, 106 Wn. App. 12, 20, 23 P.3d 515 (2001) (challenges to settlement agreements are governed by general principles of contract law"). He did not do so.

**C. Even if this Court Reaches the Contents of Mr. Burroughs' Substitute Brief, There Is No Basis to Reverse the Trial Court Judgment.**

Even if this Court declines to dismiss Mr. Burroughs' appeal under RAP 17.4(d), his meritless appeal requires that the Court affirm the trial court's judgment.

1. This Court should disregard all new issues in Mr. Burroughs' Substitute Brief.

Arguments and issues unrelated to issues introduced to the trial court cannot be raised on appeal. *Lunsford v. Saberhagen Holdings, Inc.*, 139 Wn. App. 334, 338, 160 P.3d 1089 (2007), *aff'd*, 166 Wn.2d 264, 208 P.3d 1092 (2009); RAP 2.5.

Here, Mr. Burroughs' four-page Substitute Brief introduces the following new issues, taking up nearly half of his brief: (1) a demand for an award of damages against Western Airpark, when the original complaint had only sought injunctive and declaratory relief; (2) a demand for fees under the "Uniformed Services Employment and Services Employment Act of 1994" [sic]; (3) allegations of forgery against the "Clerk's office in Olympia;" (4) a demand for \$10,000 in damages "from each conspirator specifically the Trail [sic] Judge, counsel for the HOA Strickler, and the custodian of the records for Thurston County Supreme [sic] Court;" and (5) a demand for \$100,000 in damages from the "Thurston County Court" for a "total lack of supervision and oversight of their legal system." Substitute Brief, pp. 5, 6. Not one of these issues was raised in the Superior Court proceedings below, most of them are not even directed at Western Airpark, and the issues must be disregarded by this Court.

2. The Substitute Brief offers no compelling basis for setting aside the Superior Court's judgment on the merits.

After this Court disregards the inappropriate new issues in Mr. Burroughs' Substitute Brief, Mr. Burroughs' argument synthesizes to the following: the trial court's judgment in favor of Western Airpark was not



supported by sufficient evidence. There is no merit to that argument.

First, by skipping appearance at trial, Mr. Burroughs waived the opportunity to present any evidence supporting his claims. *See Schuster*, 193 Wn. App. at 631 (abandonment of a known right constitutes waiver).

Second, the evidence presented at trial by Western Airpark amply supported its defenses, and the Superior Court issued findings and conclusions documenting as much. When the trial court has weighed the evidence, this Court's "review is limited to determining whether the court's findings are supported by substantial evidence and, if so, whether the findings support the court's conclusions of law and judgment."

*Standing Rock Homeowners Ass'n v. Misich*, 106 Wn. App. 231, 242–43, 23 P.3d 520 (2001) (citing *Panorama Vill. Homeowners Ass'n v. Golden Rule Roofing, Inc.*, 102 Wn. App. 422, 425, 10 P.3d 417 (2000)). Here, Western Airpark presented the testimony of four witnesses and admitted eight exhibits at trial. *See* RP 3. The evidence went uncontroverted and supports the Superior Court's findings and conclusions.<sup>7</sup> *And see* RP 40:25-41:2 (the Superior Court commenting on the sufficiency of the evidence). The evidence was sufficient to affirm the judgment.

---

<sup>7</sup> The Judgment's findings are supported at: RP 10:2-9, 14: 3-4, 16:21-17:24, 18:8-16, 17:21-22, 10:23-11:6, 12:11-17, 13:5-22, 15:21-16:14, 18:8-11, 19:9-19, 21:8-10, 21:19-22:4, 22:20-25, 23:1-7, 23:18-24:1, 24:2-3, 24:14-15, 24:19-21, 11:11-13, 39:17-20, and

Finally, Mr. Burroughs is mistaken in his suggestion that Western Airpark thwarted him (or this Court) from reviewing the trial evidence. *See* Substitute Brief, p. 5 (asserting that Western Airpark “scarfed up all of the exhibits as soon as the [trial] was over”). To the contrary, Western Airpark signed a stipulation that the Clerk of the Superior Court would not dispose of the trial exhibits until 45 days after the filing of final judgment. *See* SCP (TCSC No. 47 (Stipulation and Order for Return of Exhibits)). If Mr. Burroughs had timely appealed, the trial exhibits would have remained available from the Superior Court.

In conclusion, ample, uncontroverted evidence supported the Superior Court’s judgment, and even if Mr. Burroughs’ appeal had been timely, the Superior Court’s judgment should be affirmed.

**D. Western Airpark Seeks Its Attorney’s Fees and Costs on Appeal Pursuant to RAP 18.1**

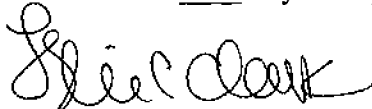
Pursuant to RAP 18.1(a) and (b), Western Airpark requests its fees and expenses incurred on appeal. *Landberg v. Carlson*, 108 Wn. App. 749, 758, 33 P.3d 406 (2001) (if fees are allowable at trial, the prevailing party may recover fees on appeal as well). As set forth in the Superior Court’s final judgment, Article 9, Paragraph 9.2 of the recorded covenants governing Western Airpark authorizes an award of costs and reasonable

attorney fees if action is brought by the board or any lot owner to enforce the covenants. SCP (TCSC No. 48 (Judgment, at 3:19-21)). Because Mr. Burroughs' appeal continues to challenge Western Airpark's authority to restrict walking on the runway, the appeal continues to invoke the plat's covenants, entitling Western Airpark to recover its fees and costs on appeal.

## **VI. CONCLUSION**

For the reasons set forth above, Western Airpark respectfully requests that this Court either dismiss Mr. Burroughs' appeal on grounds of untimeliness, waiver, and estoppel, or affirm the trial court's judgment. Western Airpark further requests award of its attorney's fees and costs on appeal.

Respectfully submitted this 15<sup>th</sup> day of September, 2016.



---

Leslie C. Clark, WSBA No. 36164  
Attorney for Respondent Western Airpark  
Association

# APPENDIX A

RECEIVED

JUN 30 2015

**JACK W. HANEMANN, P.S.** Strickler Law Office

JACK W. HANEMANN  
ATTORNEY AT LAW

SHANE C. LIDMAN  
ATTORNEY AT LAW

PROFESSIONAL SERVICES CORPORATION  
ATTORNEYS AT LAW  
STATE & SAWYER BLDG.  
2120 State Avenue N.E., Suite 101  
OLYMPIA, WASHINGTON 98506-6515  
TEL: (360) 357-3501 • FAX: (360) 357-2299  
E-MAIL: jwh@hbjlaw.com

RANDEL A. JONES  
OF COUNSEL

BRADLEY J. DRURY  
ATTORNEY AT LAW

June 25, 2015

Mary Ann Strickler  
Strickler Law Office, LLC  
303 Cleveland Ave SE Suite 201  
Tumwater, WA 98501

Re: Burroughs v. Western Airpark Association  
Thurston County Superior Court Cause No. 13-2-01581-9

Dear Ms. Strickler:

Enclosed please find the following documents for settlement of the above-referenced matter:

1. Check Number 0695201455 in the amount of \$7,287.96

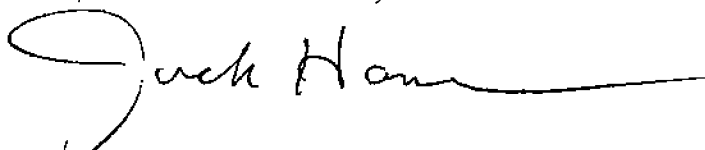
Please have your client file a release of all liens and satisfaction of judgment within three (3) business days after receipt of the settlement funds. Please send our office a copy of the letters sent to release all liens and satisfaction of judgment as well as copies of the release of liens and satisfaction of judgment once they have been filed.

The enclosed check payable to Western Airpark Association is to be negotiated only upon agreement that the release of liens and satisfaction of judgment will be filed within three (3) business days.

Please contact our office if you have questions.

Sincerely,

JACK W. HANEMANN, P.S.



Jack W. Hanemann  
Attorney at Law

JWH/sw  
Enclosures  
cc: client

PRINTED ON FINE MARK PAPER - HOLD TO LIGHT TO VIEW. FOR ADDITIONAL SECURITY FEATURES SEE BACK.

0006952 11-24  
Office AU # 1210(2)  
Remitter: WENJIN JIA  
Operator I.D.: u316708 wash0971

CASHIER'S CHECK

0695201455

June 25, 2015

PAY TO THE ORDER OF \*\*\*WESTERN AIRPARK ASSOCIATION\*\*\*

\*\*\*Seven thousand two hundred eighty-seven dollars and 96 cents\*\*\*

\*\*\*\$7,287.96\*\*\*

Payee Address:  
Memo:

WELLS FARGO BANK, N.A.  
1010 SLEATER KINNEY RD SE  
LACEY, WA 98503  
FOR INQUIRIES CALL (480) 394-3122

VOID IF OVER US \$ 7,287.96

*Richard Levy*  
CONTROLLER

⑈0695201455⑈ ⑆121000248⑆4861 512952⑈

# **APPENDIX B**

Washington State Court of Appeals  
Division II

CASE #:48078-6-II

Milo Burroughs, Appellant v. Northwest Airport Homeowners Associations  
HOA.

Re: Thurston County. No. 13-2-01581-9

Case Manager: Cheryl

October 10, 2015

Reference: Letter from Mr. David C. Ponzoha, Clerk/Administrator dated  
October 8, 2015. Tab 4

The Clerk/Administrator of the Washington State Court of Appeals,  
Division II states for the Record as follows;

1. This Court is in receipt of your Notice of Appeal filed with the  
Thurston County Superior Court on August 17, 2015. The order upon which  
this matter is being appealed was entered on October 20, 2014.

*Fact, the Thurston County Superior Court received our Notice of Appeal  
including our response to Supplemental proceeding on 7/30/2015. Tab 1/3*

*Fact, The order entered on October 20, 2014 was a request for legal fees.  
Tab 2 There was no final judgment issued out of No. 13-2-01581-9, or  
supplemental proceeding as required by 42 USC 3612(e)*

2. A notice of appeal must be filed in the trial court within **30 days**  
after the entry of the trial court decision. RAP 5.2(a)(1). Therefore the  
Notice of appeal filed August 17, 2015 was not timely filed.

*Fact, Since 5.2(a)(1) is not related to legal fees but filing deadlines RAP  
5.2(a)(1) is still open and applicable. Therefore our Notice of Appeal dated  
7/30/2015 was timely filed.*

*Fact, Mr. Ponzoha states specifically "Therefore the Notice of appeal filed  
August 17, 2015 (7/31/2015) was not timely file," The notice of appeal that  
was filed on 7/31/2015 was a RESPONSE TO ORDER FOR  
SUPPLEMENTAL PROCEEDING not a response to the request order for*



*attorney fees entered on OCTOBER 20, 2014. That is a Fraudulent and Discriminatory act.*

*It is an undisputed fact the Appellant filed by certified mail on 07/29/2015 an appeal to the Washington State Court of Appeals and the Counsel for the HOA.*

*Mr. Ponzohs surmises that the Appellant had 30 Days after the trial court decision of October 20, 2014 to file his appeal; this is error for several reasons:*

*1. He relates this to RAP 5.2(a)(1), this is not correct, the appellant did not file under local rules he filed under 42 USC 3610(a) at both the trial court and in response to the Supplemental Proceedings.*

*2. The lack of a final judgment required under 42 USC 3612(e) in the trial court decision meant that 42 USC 3610(a) was and is still open.*

*But, Mr. Ponzohs and the Clerk knew all of this because they knew that the Appellants appeal got to the Court in Thurston County and was filed on 2015 JUL 31. Tab 3. They held it for a week or so to make sure that the filing did not take place until it would have been untimely under the 30 day local rule to cover their bets. But indeed we met the 30 day rule in any case*

*With a little white out the Clerk at Thurston County hid that factor to make it appear that the appeal had never been filed and Mr. Ponzohs stated for the record "was not timely filed." Presto, dismissed as untimely."*

*The concealment of the actual filing date cannot be described as accidental; It was intentional, personal and administrative fraud. Tab 3*

*Mr. Ponzohs statement "Therefore, the notice of Appeal filled August 17, 2015 was not timely filed." is fraudulent. The Appellant filled on by the Thurston County Clerks own admission was 2015 JUL 31 and then whited out.*

*This fact is borne out by any standard of proof by Tab 3 amounts to contradiction of Mr. Ponzoah statement.*

*There is no question that the Appellants appeal was timely filed.*

*The appellant will be pleased to bring the Tab 3 originals to the Courts Offices on Broadway in Tacoma at the Courts convenience for the Courts examination.*

*Under 42 USC 3611(c)(2) actions described by the preceding is a criminal act with personal penalties, and we request applicable consideration of charges deemed appropriate on the part of the Clerk at Thurston County Court to be so charged.*

### RESPONSE

*The HOA is without standing to submit argument reference No. 13-2-01581-9 absent compliance with 42 USC 3610(a) and (a)(1)(D) more specifically compliance with 42 USC 3612(k)(3) "No objection not made before the administrative law judge (on any matter) SHALL be considered by the court (Washington Court of Appeals, Division II) unless the failure or neglect to urge such objection is excused because of extraordinary circumstances." Emphasis added*

### RELIEF

This attempt to circumvent 42 USC 3610(a) must be dismissed with prejudice.

### GENERAL NOTES

42 USC 3612(e) "Resolution of charge, Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued."

1. Neither a final order nor a final judgement was rendered under 01581-9 and/or supplemental proceedings. Tab 1.
2. 01581-9 is an Attorney fee request more than a year old. IT IS NOT A TRIAL COURT DECISION as implied by the Thurston County Superior Court and cannot be so reasoned!
3. There remains a significant record by sworn affidavit not accounted for between October 20, 2014 and August 30, 2015 in the actual record.
4. The record is absent any evidence of "consent" by the appellant as required by (e).

5. The order was miss labeled (13-01585-9) and we did not receive it until after 214 Oct 20, it was clearly not possible for us to attend, how could we appear, one of the many last minute changes. Tab 2.

6. An aggrieved person has 2 years to file an appeal with the Washington Court of Appeals, Division II: 3613(1)(A) "An aggrieved person may commence a civil action in an appropriate --- State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice,---whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice---."

The discrimination practice is still enforced to date.

The sworn, undisputed record stated and argued by the appellant was "Discrimination" as found at 3610 in accordance with (IAW) 3612(a).

Legally the trial record is still open until such time that a Final order or final Judgement is rendered.

Since the HOA failed to address this issue 30 days has elapsed and ordinarily a waiver may not be granted even for the HOA.

Application of 42 USC 3615 is significant, "Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid."

Application of 42 USC 3617 reference the appellant being attacked by 2 HOA members while walking on the runway-"It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title."

## SUM

Mr. Ponzoha I have had misgivings from the start of the letter at issue here. Its profile and authority is not described in the Courts rules.

You appear to exhibit absolute authority as both a Clerk of the Court and a Personal Judge.

You have structured what appears to be a letter requiring the Appellant to respond in the most direct manner consisting of at best hear-say evidence directing the Appellant by date to address a preset untimely filing after illustrating Ex parte contact with the HOA Counsel.

You have come down hard in agreement with the HOA using by any description false and misleading verbiage almost as if you have not read his appeal.

We have carefully reviewed the appeal process as applied to Division Two's rules and these rules describe a separate hearing process by the court of appeals.

The Appellant appeals to the court of appeals.

The HOA must response to the appellants appeal, in this case the HOA did not respond at all, in or out of time so it matters nil.

The only thing before the Court of Appeals is four copies of the Appellants appeal.

It is obvious that the Thurston County Clerk's office is not to be trusted and the Clerk's office at Division Two's is tending in that direction.

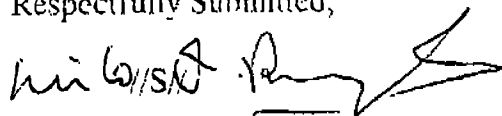
Right now the only documents to be reviewed by the appeal Judges is four copies of the Appellants appeal, one for the record and one each for each Judge a copy of Mr. Ponzoa's, letter and our response here.

The gist of this letter by Mr. Ponzoa is; I am convinced your appeal was not timely filed and I will decide it without oral argument.

Rule 17.4(a)(1) requires that a motion must be filed by a party. The HOA is no longer a party to this case because they failed to respond to the Appellant's appeal within 30 days and the Clerk is not a party with the power to place this matter on the motion calendar.

We are sending a copy of this Letter to the Chief of adjudication and asking him/her to review this case and monitor it to a final decision and take appropriate action in accordance with 42 USC 3611(c)(2) .

Respectfully Submitted,



Milo D. Burroughs  
11244 Aero Ln SE  
Yelm, WA 98597  
360-200-2020 Preferred com

CC: Chief Judge, Jill Johanson, Division Two,  
FAX 253-593-2204

### AFFIDAVIT

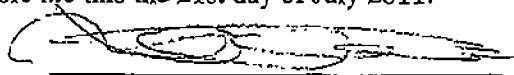
Pursuant to 28 USC 1764 and under penalty of perjury, MILO DODD BURROUGHS states upon his oath that the following information is true to his personal knowledge.

Total pages including tabs 10

  
MILO DODD BURROUGHS

STATE OF WASHINGTON  
COUNTY OF THURSTON

Sworn to and subscribed before me this the 21st day of July 2011.

  
NOTARY PUBLIC *KARON W. F. Farness*  
My commission expires: 3-29-14

## CERTIFIED SERVICE

13-6-0155-9 *sub. 9. p. 1*MCKENNA MPO  
9111 350TH ST S  
MCKENNA  
WA

985589800

FILED → 07/29/2015 (800)275-8777 2:12 PM

Product	Sale	Final
Description	Qty	Price

PM 1-Day 1 \$5.75

Flat Rate Env

(Domestic)

(OLYMPIA, WA 98502)

(Flat Rate)

(Expected Delivery Day)

(Thursday 07/30/2015)

(USPS Tracking #)

(9505 5101 8776 5210 0125 06)

Insurance 1 \$0.00

(Up to \$50.00 included)

First-Class 1 \$2.08

Mail

Large Envelope

(Domestic)

(OLYMPIA, WA 98501)

(Weight:0 Lb 5.40 Oz)

(Expected Delivery Day)

(Friday 07/31/2015)

Total \$7.83

Credit Card Remitd \$7.83

(Card Name:Discover)

(Account #:XXXXXXXXXX9837)

(Approval #:02903R)

(Transaction #:136)

For tracking or inquiries go to  
USPS.com or call 1-800-222-1811.Save this receipt as evidence of  
insurance. For information on filing  
an insurance claim go toDELIVERED  
TO COURTDELIVERED  
TO COUNSELDELIVERED  
TO COUNSEL

TAB-1

5

FILED  
SUPERIOR COURT  
THURSTON COUNTY, WA

2014 OCT 20 AM 9:35

BETTY J. GOULD, CLERK

IN THE SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

MILO D. BURROUGHS,

Plaintiff,

vs.

WESTERN AIRPARK ASSOCIATION,

Defendant.

No. 13-~~01585-9~~

01581-9

ORDER AND JUDGMENT

JUDGMENT SUMMARY:

1. Judgment Creditor: Western Airpark Association
2. Judgment Debtor: Milo D. Burroughs
3. Principal Judgment Amount: \$ 0
4. Interest to Date of Judgment: n/a
5. Attorney Fees: \$ 4393.-
6. Costs: n/a
7. Total Judgment Amount: \$ 4393.-
8. Principal Judgment Amount Shall Bear Interest at 12% per annum.
9. Attorney Fees, Costs and Other Recovery Amounts Shall Bear Interest at 12% per annum.
10. Attorney for Judgment Creditor: Mary Ann Strickler
11. Attorney for Judgment Debtor: Pro se

This matter was regularly scheduled for trial and called on October 20, 2014, by this Court, sitting without jury. Defendant was represented by Mary Ann Strickler, Attorney at Law. Plaintiff Burroughs was not represented by counsel, and did/did not appear at the trial. not

NOW THEREFORE, the Court enters the following:

ORDER AND JUDGMENT  
PAGE 1

ORIGINAL

STRICKLER LAW OFFICE, LLC  
303 CLEVELAND AVE SE, STE 201  
TUMWATER, WA 98501  
PHONE (360) 539-7156  
FAX (360) 539-7205

clld Atty

14-9-00887-5

TAB-2

UNDER THE WHITE OUT

FILED

2015 JUL 31

2015 JUL 31 AM 11:10

THURSTON COUNTY

ORIGINALLY  
RECEIVED  
2015 JUL 31 AM 11:10

AS  
RECEIVED  
WITH  
THE  
WHITE  
OUT

Notice of Appeal

NO. 13-C-01581-9

ANSWER OR RESPONSE COVER SHEET

- ☐ DOCUMENT CONTAINS
  - ☐ CROSS CLAIM (ANACC)
  - ☐ COUNTER CLAIM (ANCC)
  - ☐ THIRD PARTY COMPLAINT (AN3PC)
  - ☐ ANSWER & COUNTER PETITION (ANCP)

TAB-3

☐ EXPEDITE (if filing within 5 court days of hearing)  
☐ Hearing is set:  
Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Judge/Calendar: \_\_\_\_\_

SUPERIOR COURT OF WASHINGTON  
FOR THURSTON COUNTY

M.D. BURASUCAS  
Plaintiff/Petitioner,

vs.





## Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454

David Ponzoha, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> OFFICE HOURS: 9-12, 1-4.

October 8, 2015

Mary Ann Strickler  
Strickler Law Office, LLC  
303 Cleveland Ave SE Ste 201  
Tumwater, WA 98501-3340  
mas@stricklerlawoffice.com

Milo Burroughs  
11244 Aero Lane SE  
Yelm, WA 98597

CASE #: 48078-6-II

Milo Burroughs, Appellant v. Northwest Airpark Homeowners Association, Respondent

Re: Thurston County. No. 13-2-01581-9

Case Manager: Cheryl

Dear Mr. Burroughs:

This Court is in receipt of your Notice of Appeal filed with the Thurston County Superior Court on August 17, 2015. The order upon which this matter is being appealed was entered on October 20, 2014.

A Notice of Appeal must be filed in the trial court within 30 days after the entry of the trial court decision. RAP 5.2(a)(1). Therefore, the Notice of Appeal filed August 17, 2015 was not timely filed. You may move the Court for permission to file your Notice of Appeal late. But note, the court will only grant such a motion if you show that extraordinary circumstances exist. RAP 18.8(b).

I am placing this matter on the motion calendar for dismissal. In accordance with this court's general order 91-1, effective April 1, 1991, the motion for dismissal will be determined without oral argument. Any response to the motion must be served and filed no later than **October 23, 2015**.

Very truly yours,

David C. Ponzoha,  
Court Clerk

DCP:c

cc: Thurston County Clerk

TAB-4

# APPENDIX C



# Washington State Court of Appeals

## Division Two

950 Broadway, Suite 300, Tacoma, Washington 98402-4454

David Ponzoha, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)

General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12, 1-4.

---

October 27, 2015

Mary Ann Strickler  
Strickler Law Office, LLC  
303 Cleveland Ave SE Ste 201  
Tumwater, WA 98501-3340  
[mas@stricklerlawoffice.com](mailto:mas@stricklerlawoffice.com)

Milo Burroughs  
11244 Aero Lane SE  
Yelm, WA 98597  
[Bmb2002@fairpoint.net](mailto:Bmb2002@fairpoint.net)

CASE #: 48078-6-II

Milo Burroughs, Appellant v. Northwest Airpark Homeowners Association, Respondent

Counsel:

On the above date, this court entered the following notation ruling:

### **A RULING BY COMMISSIONER SCHMIDT:**

The notice of appeal is deemed filed on July 31, 2015 (2 days after it was mailed) and is therefore timely filed. The Clerk will issue a perfection schedule in due course.

Very truly yours,

David C. Ponzoha  
Court Clerk

# **APPENDIX D**

Leslie C. Clark  
Phillips Burgess PLLC  
505 Broadway Unit 408  
Tacoma, WA 98402-3998

August 19, 2016

Dear Miss Clark,

On September 3, 2013, January 27, 2015, July 28, 2015, December 16, 2015, March 25, 2016, May 23, 2016, July 1, 2016, and August 4, 2016, Milo D. Burroughs, 11244 Aero Lane SE, Yelm, WA 98597 photo copied my name and Notary Public seal to seven documents submitted to the Washington State Court of Appeals, Division Two CASE #: 48078-6-II Milo Burroughs, Appellant v. Western Airpark Association, Respondent.

This action was done to make these documents appear to have been notarized by me.

In reviewing the documents, it appears that Mr. Burroughs acquired the copy of my signature and seal from a document I notarized for him on May 22, 2012 while I was working at Key Bank in Yelm.

Mr. Burroughs never appeared before me on the above dates with those documents.

I never witnessed Mr. Burroughs signature on those documents.

I did not notarize those documents.

As a retired executive of Key Bank, I am very knowledgeable of what fraud, identity theft and forgery is and what to look for.

Mr. Burroughs is using these documents in an attempt to gain financial ruling in his favor from the court.

He has submitted these documents to the court which have been doctored to appear to be notarized which in my opinion is fraud.


He has changed dates and tried to make the AFFIDAVIT of the Notary appear to be for these documents which is forgery.

Most upsetting to me is the fact that he has stolen my identity as a Notary Public for the State of Washington. This is no different than photo copying a professional engineer's signature and seal on a building plans to obtain a building permit. It is criminal and constitutes identity theft.

The court should never have accepted these documents since they falsely state that they have been notarized. Mr. Burroughs violated RCW 40.16.030 on September 4, 2013 and any other time when he filed any of these or other documents with the court using my name and forging the AFFIDAVIT of the Notary. This is considered a Class C Felony.

Before I consider filing charges against Mr. Burroughs, I want to let Western Airpark Association know that the documents in this Case were not notarized by me as stated by Mr. Burroughs and should not have been accepted by the Court Clerk.

Sincerely,



Karen L. Whitehouse  
7209 38<sup>th</sup> Drive SE  
Lacey, WA 98503  
Phone 360-459-1262

**PHILLIPS BURGESS PLLC**

**September 15, 2016 - 10:16 AM**

**Transmittal Letter**

Document Uploaded: 3-480786-Respondent's Brief.pdf

Case Name: Burroughs v. Northwest Airpark Homeowners Association

Court of Appeals Case Number: 48078-6

**Is this a Personal Restraint Petition?** Yes ☐ No ☒

**The document being Filed is:**

Designation of Clerk's Papers

Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: \_\_\_\_\_

Answer/Reply to Motion: \_\_\_\_\_

☒ Brief: Respondent's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: \_\_\_\_\_

**Comments:**

No Comments were entered.

Sender Name: Larissa N Stewart - Email: [rcharlton@phillipsburgesslaw.com](mailto:rcharlton@phillipsburgesslaw.com)

A copy of this document has been emailed to the following addresses:

[Bmb2002@fairpoint.net](mailto:Bmb2002@fairpoint.net)